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10/777,052	02/09/2004	Meghan M. Barni		3905

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LAW OFFICE OF DAVID H. JUDSON
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EXAMINER

JARRETT, SCOTT L

ART UNIT	PAPER NUMBER
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3624

NOTIFICATION DATE	DELIVERY MODE
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11/14/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mail@davidjudson.com

Office Action Summary

Application No.

10/777,052

Applicant(s)

BARNI, MEGHAN M.

Examiner

SCOTT L. JARRETT

Art Unit

3624

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 5-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 5-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This **Final** Office Action is in response to Applicant's amendment filed September 25, 2008. Applicant's amendment amended claims 1 and 5-10 and canceled claims 2-4 and 11-17. Currently claims 11-17 are pending.

Response to Amendment

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Response to Arguments

3. Applicant's arguments with respect to claims 1 and 5-10 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 and 5-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding independent Claim 1, Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01.

The omitted steps are: what method steps are taken, if any method steps are taken, if

- A. the first agent is **not** permitted to trade;
- B. the second agent is **not** permitted to trade; or
- C. the trade **does** violate the first or the second rule.

For the purposes of examination the examiner interpreted independent claim 1 to read on any one of the claims as provided below.

- A. When the first agent is **not** permitted to trade:

A workforce management method operative in a computer network for enabling entities to trade work schedules, where the entities are contact center agents that report to a supervisor, the method comprising:

configuring a supervisor display by which the supervisor selects which individual agents are permitted to trade work schedules, and by which the supervisor specifies a set of rules that allow work schedules to be traded, the set of rules including at least a first rule configured by the supervisor and that identifies a maximum number of time units per a given time period of an agent that is permitted to trade a work schedule, and a second rule configured by the supervisor and that identifies a time period into which a work schedule to be traded must fit into in order to satisfy a trade;

< first agent is not permitted to trade, method steps end >

OR

B. When the second agent is **not** permitted to trade:

A workforce management method operative in a computer network for enabling entities to trade work schedules, where the entities are contact center agents that report to a supervisor, the method comprising:

configuring a supervisor display by which the supervisor selects which individual agents are permitted to trade work schedules, and by which the supervisor specifies a set of rules that allow work schedules to be traded, the set of rules including at least a first rule configured by the supervisor and that identifies a maximum number of time

units per a given time period of an agent that is permitted to trade a work schedule, and a second rule configured by the supervisor and that identifies a time period into which a work schedule to be traded must fit into in order to satisfy a trade;

if a first agent is permitted to trade a work schedule as indicated by the supervisor selection, enabling the first agent to offer for trading a first work schedule, the first work schedule having associated therewith a second work schedule as defined by the first agent that the first is willing to accept in trade for the first work schedule; and

< second agent is not permitted to trade, method steps end>

OR

C. When a trade does violate either the first or second rule:

A workforce management method operative in a computer network for enabling entities to trade work schedules, where the entities are contact center agents that report to a supervisor, the method comprising:

configuring a supervisor display by which the supervisor selects which individual agents are permitted to trade work schedules, and by which the supervisor specifies a set of rules that allow work schedules to be traded, the set of rules including at least a first rule configured by the supervisor and that identifies a maximum number of time units per a given time period of an agent that is permitted to trade a work schedule, and a second rule configured by the supervisor and that identifies a time period into which a work schedule to be traded must fit into in order to satisfy a trade;

if a first agent is permitted to trade a work schedule as indicated by the supervisor selection, enabling the first agent to offer for trading a first work schedule, the first work schedule having associated therewith a second work schedule as defined by the first agent that the first is willing to accept in trade for the first work schedule; and

if a second agent is permitted to trade a work schedule as indicated by the supervisor selection and

< trade violates either the first or second rules, method steps end>

Claim Objections

6. Claims 1 and 5-10 are objected to because of the following informalities.

Appropriate correction is required.

Regarding Claim 1, Claim 1 as claimed "enabling the first agent to offer for trading a first work schedule...." merely enables a first agent to offer a trade however in the invention as claimed the agent does not actually offer a schedule for trade. For the purposes of examination examiner assumes the applicant will amend the claim to positively recite that agent actually offers for trade one or more schedules.

Further regarding claim 1, claim 1 merely recites "enabling the second agent to accept the first agents first work schedule" however in the method as claimed the second agent does not actually accept the first agent's work schedule. For the purposes of examination examiner assumes applicant will amend the claim to positively recite that the second agent actually accepts the first agent's work schedule.

Regarding Claim 7, Claim 7 recites a week period having a specified length" appears to be counter-intuitive. Clarification is requested as to how a week have any other length that a week.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1 and 5-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Narasimhan et al., U.S. Patent Publication No. 2005/0096962

Regarding Claim 1 Narasimhan et al. teach a workforce management system and method for enabling entities (workers, staff, employees) that report to a supervisor, to trade work schedules (shifts, assignments, jobs, tasks, etc.) comprising (Paragraphs 7; Figures 5, 6A, 6B):

- a supervisor selecting, via a supervisor display, which individual agents are permitted to trade work schedules and setting rules (policies, constraints, requirements, requisites, guidelines, laws, etc.; Paragraphs 31, 37, 41, 46, 47, 48, 54; Figure 1, Element 122; Figure 3) including at least a (first) rule that identifies a maximum number of time units per a given time period an agent is permitted to trade work schedules (Paragraph 38); and a (second) rule that identifies a time period into which a work schedule to be traded must fit in order to satisfy a trade (Paragraphs 41, 49, 50, 54);

- if a (first) agent is permitted to trade a work schedule as indicated by the supervisors selection (i.e. rules/policies) enabling the (first) agent to offer for trading a work schedule having an associated second work schedule that the (first) agent is willing to trade (Paragraphs 46-48; Figures 5, 6A, 6B);

- if a (second) agent is permitted to trade a work schedule as indicated by the supervisor's selection (rules) enabling the first agent and if the trade does not violate either the first or second rules enabling the second agent to accept the first agents first work schedule (Paragraphs 46, 47, 48, 54; Figures 5, 6A, 6B).

Regarding Claim 5 Narasimhan et al. teach a workforce management system and method further comprising the supervisor specify a (third) rule that restricts the first and second agents from trading work schedules unless the agents are members of a workgroup (worker type, groups, teams, company, division, skill, same location/site, etc.; Paragraphs 41, 52, 54).

Regarding Claim 6 Narasimhan et al. teach a workforce management system and method further comprising the supervisor specifying a (third) rule that restricts the first and second agents from trading work schedules unless the agents share a given skill (e.g. worker type; Paragraphs 41, 52, 54).

Regarding Claim 7 Narasimhan et al. teach a workforce management system and method wherein the time period into which a work schedule to be traded must fit

Art Unit: 3624

identifies a week period starting on a specified day of the week or on a give date (Paragraphs 38, 46, 49, 50).

Regarding Claim 8 Narasimhan et al. teach a workforce management system and method wherein the time period into which a work schedule to be traded must fit identifies a given calendar (schedule, holidays, set of dates, roster; etc.; Paragraphs 31, 41-42).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Narasimhan et al., U.S. Patent Publication No. 2005/0096962 as applied to claims 1 and 5-8 above, and further in view of official notice.

Regarding Claim 9, Narasimhan et al. teach a workforce management system and method further comprising the supervisor specifying an time frames and/or times in which the trades that must be respected before a schedule trade may occur (deadlines, opening/closing dates; Paragraphs 49-50, 54).

Narasimhan et al. does not expressly teach the supervisor specifying an advance notice requirement as claimed.

Official notice is taken that providing advance notice to your supervisor prior to taking a vacation is old and well known, further it is old, well known and common for supervisors (employers) to have advance notice policies and/or rules for schedule

change requests wherein such rules ensure that the business has adequate time to cover the requested shift/schedule change.

It would have been obvious to one skilled in the art at the time of the invention that the workforce management system and method as taught by Narasimhan et al. with its ability to support any number of well known and/or commonly user business, shift, trade and/or worker preferences, policies, and rules would have benefited from implementing any of a plurality of well known rules such as advanced noticed required for vacation in view of the teachings of official notice; the resultant system/method enabling the business adequate notice in which to prepare for the workers request shift/schedule change.

Further since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Regarding Claim 10, claim 10 recites similar limitations to Claims 1 and 5-9 and is therefore rejected using the same art and rationale as applied in the rejection of Claims 1 and 5-9.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Green, U.S. Patent No. 6,192,346, teach a workforce management system and method comprising the swapping, trading and scheduling of shifts according to multiple business and scheduling rules (policies, constraints).

- Vajracharya et al., U.S. Patent No. 7,246,076, teach a workforce management system and method comprising shift scheduling based on a plurality of rules, constraints and preferences at various levels including at group (workgroup) and individual levels.

- Ossip et al., U.S. Patent Publication No. 2003/0018509, teach a workforce management system and method comprising enabling shift/schedule trades between first/second agents wherein the trades must satisfy one or more trade rules such as skills, workgroup, maximum working time or submission timeframes (Paragraphs 47, 63, 67-68, 74, 76).

- PrimeTime F&S V1.3 User's Guide (1998), teaches a workforce management system and method comprising employee shift scheduling according to a plurality of well known constraints such as employee skill levels, groups, shift patterns and the like.

- Green, Workforce management (2001), teaches a plurality of well known and publicly for sale workforce management systems and method wherein a majority of the WFM systems comprising enabling the trading, swapping and/or bidding of employee shifts (e.g. IEX's TotalView) including two or more WFM systems wherein the trading/swapping/bidding is governed by/subject to trade rules (Paragraph 4, page 1; Paragraph 1, Page 5).

- IEX add schedule bidding to TotalView (2001), teaches the ability to bid employee shifts/schedule in IEX's TotalView product.

- IEX Enhances Award-Winning Workforce Management Solution (2001), teaches the ability to bid employee shifts/schedule in IEX's TotalView product.

- Fleischer, The time machine (2002), teaches a plurality of commercial workforce management systems a majority of which comprising trading, swapping and/or bidding of employee shifts wherein the trading/swapping/bidding is subject to trading rules (e.g. Portage).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SCOTT L. JARRETT whose telephone number is (571)272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bradley Bayat can be reached on (571) 272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott L. Jarrett/
Primary Examiner, Art Unit 3624